APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,575	04/01/2004	Gregory E. Borchers	SLA1461	1234

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EXAMINER
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ART UNIT	PAPER NUMBER
2193	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/816,575	BORCHERS, GREGORY E.
	Examiner	Art Unit
	JUE S. WANG	2193

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _07 April 2004_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
    closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _17-26_ is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _17-26_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _07 April 2004_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a)☐ All b)☐ Some * c)☐ None of:

    1.☐ Certified copies of the priority documents have been received.

    2.☐ Certified copies of the priority documents have been received in Application No. _____.

    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
        application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

U.S. Patent and Trademark Office

PTOL-326 (Rev. 08-06)   **Office Action Summary**   Part of Paper No./Mail Date 20080513

DETAILED ACTION

1.   Claims 17-26 have been examined.

2.   Claims 1-16 were cancelled in amendment dated 3/7/2008.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4.   Claims 22-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. The following lacks antecedent basis in the claims:

i.   Claim 22, "said method" in lines 1-2.

Appropriate corrections are required.

Any claim not specifically addressed, above, is being rejected as incorporating the deficiencies of a claim upon which it depends.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.   Claims 17-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guess (US

2003/0204711 A1), in view of Woodard et al. (US 2002/0104080 A1, hereinafter Woodard).

7.   As per claim 17, Guess teaches the invention as claimed, including a method for

preserving configuration data during firmware modification (see [0042], [0044]), said method

comprising:

a) establishing a direct serial connection between a firmware device and a download

computing device (see [0045]);

c) uploading firmware configuration data, from an existing firmware structure in said firmware

device to the download computing device (see [0046]);

d) storing said firmware configuration data on the download computing device (see [0046]);

e) erasing firmware, including said firmware configuration data, from said firmware device (see

Fig 3, [0021], [0047]);

f) loading a new firmware structure from said download computing device to said firmware

device over said direct serial connection (see [0047]);

g) loading said firmware configuration data from the download computing device to said

firmware device over said serial connection (see [0050]).

        Guess does not teach a web-based data management utility residing on a server, a

network connection connecting said firmware device, said download computing device, and said

web-based management utility. Guess also does not teach uploading and storing firmware

configuration data over the network connection, from an existing firmware structure in said

firmware device to the web server using web-based administration utility, and loading the

firmware configuration data from the web server to the firmware device over the network

connection.

Woodard teaches a web-based data management utility residing on a server (see Fig 3,

abstract, [0038], [0048]-[0050]), a network connection connecting a computing device and said

web-based management utility (see Fig 1, Fig 4, abstract, [0009]-[0013], [0048], page 15, claim

16), and uploading configuration data from the computing device to the web server using the

web-based administration utility and loading the configuration data from the web server to the

computing device (see Fig 3, Fig 5, Fig 7, abstract, [0012], [0051], [0052]).

It would have been obvious to one of ordinary skill in the art at the time of the invention

to have modified the system of Guess to contain a web-based data management utility residing

on a server, a network connection connecting said firmware device, and said web-based

management utility, and uploading configuration data from the firmware device to the web

server using the web-based administration utility and loading the configuration data from the

web server to the firmware device as taught by Woodard because the server system provides a

network-based, easy, fast, and comprehensive method of extraction/transference of settings and

stored application settings can be retrieved by the subscriber for purposes of restoring a crashed

system, transference to a repaired or new system, converted for use on a new differing device or

updated to reflect changes in software (see [0008] and [0012] of Woodard).

8.   As per claim 18, Guess teaches converting said configuration data to a format compatible

with said new firmware structure prior to loading said firmware configuration data (see [0049]-

[0051]).

Guess does not teach that the conversion is performed by the web-based device administration utility on the web server.

Woodward teaches that the web-based administration utility on the web server performs conversion of configuration data (see [0052], [0053]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the system of Guess to use the web-based administration utility to perform the conversion as taught by Woodward because the server system can be periodically updated to accommodate new and different systems, and formats (see [0013] of Woodward).

9.   As per claim 19, Guess teaches modifying the configuration data prior to said loading said configuration data (see [0049]-[0051]).

Guess does not teach the modifying is performed with the web server.

Woodward teaches that the web-based administration utility on the web server performs modification of configuration data (see [0052], [0053]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the system of Guess to use the web-based administration utility to perform the modification as taught by Woodward because the server system can be periodically updated to accommodate new and different systems, and formats (see [0013] of Woodward).

10.   As per claim 20, Guess does not teach querying network elements to ascertain additional configuration data needed by said new firmware structure.

Woodward teaches computer devices querying network elements to ascertain additional configuration data needed by new applications on the computer device (see [0012], [0053], [0235]-[0237]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the system of Guess to query network elements to ascertain additional configuration data needed by said new firmware structure as taught by Woodward because the server system allows the configuration data to be updated to reflect changes in software or to work with new and different systems, platforms, formats and programs (see [0012], [0013] of Woodward).

11.   As per claim 21, Guess does not teach combining said additional configuration data with said configuration data using said web-based device administration utility on said web server prior to said loading said firmware configuration data.

Woodward teaches that the web-based device administration utility on the web server combines additional configuration data with old configuration data prior to loading the configuration data (see [0012], [0053], [0235]-[0237]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the system of Guess to combine said additional configuration data with said configuration data using said web-based device administration utility on said web server prior to said loading said firmware configuration data as taught by Woodward because the server system allows the configuration data to be updated to reflect changes in software or to work with new and different systems, platforms, formats and programs (see [0012], [0013] of Woodward).

12.   As per claims 22-26, these are system claims with limitations that are substantially

similar to claims 17-21. Therefore, they are rejected using the same reasons as claims 17-21.

Response to Arguments

13.   Applicant argued that the combination of prior art references does not disclose the use of

a direct serial connection for firmware loading while using a network connection for firmware

configuration data transmission and the combination of prior art references does not disclose the

use of a downloading device for loading firmware in conjunction with a web server for storing

and transmitting firmware configuration data. Examiner respectfully disagrees and submits that

Guess in view of Woodward teaches these limitations. Guess teaches the use of a direct serial

connection for firmware loading and the use of a downloading device for loading firmware (i.e.,

PC is the downloading device and is plugged into the data reader receiving the firmware, see

[0045], [0047]). Woodward teaches the use a web server for storing and transmitting

configuration data (see Fig 1, Fig 4, abstract, [0009]-[0013], [0048], [0051], [0052], page 15,

claim 16). Therefore, the combination of Guess and Woodward teaches these limitations.

Applicant also argued that the system of Woodward works with full computer systems, such as

those that use the Microsoft Windows operating systems, which have substantial system

resources and the system will not work with many firmware devices with limited resources.

Examiner respectfully disagrees with this assertion. Woodward teaches that the system works

with computer-based devices including telephones (see Fig 4, page 15, claim 16). It is well

known in the art that telephones are resource constrained devices. Therefore, contrary to

Applicants' arguments, the system of Woodward will work with firmware devices with limited

resources. Applicant also argued that the currently claimed embodiments of the present invention

may be distinguished from the system of Woodward by the lack of a need to download a

program to the firmware device. Examiner notes that the claim language as recited does not

exclude the download of a program to the firmware device to execute the upload and download

of configuration data. Furthermore, Examiner notes that claim 22 (elements f and j) recite an

uploader for uploading firmware configuration data and a configuration loader for loading

configuration data which suggests that some sort of software support such as the uploader and

the configuration loader is required for the uploading and downloading of configuration data.

Conclusion

14.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

- o   McGowan et al. (US 2005/0028165 A1) is cited to teach a method of preserving and
    restoring mobile device user settings.

15.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Jue S. Wang whose telephone number is (571) 270-1655. The

examiner can normally be reached on M-Th 7:30 am - 5:00pm (EST).

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Lewis Bullock can be reached on 571-272-3759. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

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applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lewis A. Bullock, Jr./   Jue Wang
Supervisory Patent Examiner, Art Unit 2193   Examiner
                                                                Art Unit 2193